

SUPER LAW GROUP, LLC

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WRITER'S DIRECT DIAL: 212-242-2355
EMAIL: nick@superlawgroup.com

May 4, 2018

Via Certified Mail, Return Receipt Requested

Citizen Suit Coordinator
Environment and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044-7415

Re: *Sierra Club, Inc. v. Nicolai Ready Mix, et al.*, United States District Court
for the Eastern District of New York, Case No. 2:17-cv-05587-ADS-AYS

Dear Citizen Suit Coordinator,

Pursuant to 33 U.S.C. § 1365(c)(3) of the Clean Water Act (CWA), counsel for Sierra Club, Inc. provides the attached proposed consent decree between the parties in the above-captioned action resolving violations of the CWA. The parties intend to file a joint motion for entry of the consent decree with the United States District Court for the Eastern District of New York following the 45-day period for the United States' review of the consent decree required by 40 C.F.R. § 135.5(b).

Plaintiff alleged in this lawsuit that Defendants were violating sections 301(a), and 402(p)(2)(B) of the Clean Water Act by discharging polluted stormwater from their four concrete manufacturing facilities, to waters of the United States around Lindenhurst and Island Park, New York, and that they were doing so without NPDES permit coverage. In settling the lawsuit, Defendants have agreed to obtain permit coverage under New York's Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity at three facilities identified in the complaint, to complete structural modifications that will limit stormwater discharges, and to pay an Environmental Benefit Payment. Defendants have also prepared Stormwater Pollution Prevention Plans for the three facilities, which are appended as an exhibit to the attached proposed Consent Decree. For the fourth facility identified in the complaint, Defendants will be seeking a no exposure certification, as the parties agree industrial activity is not taking place there, only commercial activities are taking place. Finally, the parties have agreed on a process for Defendants to review other facilities they operate on Long Island, not identified in the complaint, for Clean Water Act compliance.

I have attached written confirmation from the proposed funding recipient stating that it (1) will spend any monies received under the settlement agreement for the

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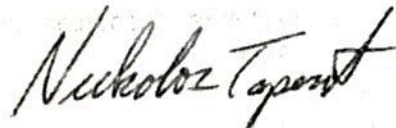
Citizen Suit Coordinator
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purposes specified in the agreement; (2) will not use any money received under the settlement agreement for political lobbying activities; and (3) will submit a report on how the funds were spent.

By submitting this proposed consent decree, counsel for Plaintiff asks the United States to promptly review the agreement and, if it does not object to dismissal of this action, to so notify the Court.

If you have any questions or concerns regarding this matter, please contact me.

Very truly yours,



Nicholas W. Tapert
Super Law Group, LLC
180 Maiden Lane, Suite 603
New York, NY 10038
(212) 242-2355
nick@superlawgroup.com
Attorney for Plaintiff

Encls.

cc:

Scott Pruitt, Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
(via certified mail, return receipt
requested)

Peter D. Lopez
Region 2 Administrator
Environmental Protection Agency
290 Broadway
New York, NY 10007-1866
(via regular mail)

MAY 10 2018



From: Marshall Brown
President, Save The Great South Bay
132 Clyde Street, Ste 100
% Murray Law Group
West Sayville, NY 11796
(212) 380-8418
info@savethegreatsouthbay.org

March 30, 2018

To: Citizen Suit Coordinator
Environment and Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044-7415

Re: Proposed Consent Decree, *Sierra Club, Inc. v. Nicolia Ready Mix, Inc., et al.*, Case No. 2:17-cv-05587-ADS-AYS

Dear Citizen Suit Coordinator:

Save the Great South Bay, Inc. is a community-based 501(c)(3) non-profit organization that serves as the environmental steward for The Great South Bay and the uplands surrounding it. Our mission is to revitalize The Great South Bay so that our children and grandchildren can swim, fish, clam and sail this bay as we had.

We have received and read the proposed consent decree relating to the concrete manufacturing and processing facilities, operated by Nicolia Ready Mix and the related companies. Save the Great South Bay is named as the Environmental Benefit Payment ("EBP") recipient of \$20,000 "for use on projects relating to the reduction, mitigation, and/or remediation of the effects of stormwater pollution or environmental restoration of, or other benefit to, Santapogue Creek and the Great South Bay and its surrounding watersheds." We understand that the EBP amount may be reduced should the New York State Department of Environmental Conservation impose a penalty for conduct that is the subject of the above-referenced lawsuit, in accordance with the proposed consent decree.

The land surrounding the Great South Bay serves a variety of purposes including industrial, commercial, and residential land use. There are great challenges associated with reducing stormwater runoff and pollutants from this landscape. Over time, these deleterious forces have negatively impacted the health of the Bay and its surrounding lands. Fortunately, there is a

growing body of evidence that demonstrates that prudent land-use decisions on the scale of individual parcels, coordinated with neighborhood-scale initiatives, are effective in restoring ecological structure and function. Thus, The Great South Bay Ecosystem Restoration Project was designed, and will be implemented, as a means to restore and monitor portions of the Santapogue Creek Watershed.

The initiative of this plan is to maintain and protect the health of the upland habitats. Through the planting of native vegetation, we can implement an effective pollution-control measure, even in highly urban areas. Native plantings have been shown to serve the following ecological functions: 1.) Forming macropores (i.e., channels created by root growth), which helps to maintain soil aggregate, increases aeration, and facilitates percolation of water; 2.) Strengthening and stabilizing soil, reducing erosion, and decreasing the input of pollutants and particulate matter into waters; 3.) Actively absorbing nitrogen, reducing its runoff; 4.) Lowering the water tables through subsurface flows related to evapotranspiration; 5.) Facilitating biological feedback mechanisms including transpiration-driven ion accumulation; and 6.) Buffering stormwater and reducing overland flow. All of these ecosystems services serve the goals of the Clean Water Act.

Save the Great South Bay will recruit volunteers from its membership, and through discussions with local municipal authorities, to identify private and public land for system restoration. Appropriate native plants will be suggested for planting in the proper location based on the site-specific soil properties, drainage, shade profiles, and obstacles represented by built structures. Our specific objective are as follows:

- Conserve, improve, and protect the State's natural resources and environment by restoring ecosystem structure and function;
- Reducing water pollution by encouraging the onsite retention of nitrogen and other pollutants;
- Enhancing the health, safety and welfare of the people of the State of New York by increasing the health of the watershed; and
- Conducting long-term monitoring of the effectiveness of our intervention by partnering with local high schools' students.

We will be treating our project as a large-scaled adaptive management plan and will be explicitly measuring the impact of our restoration process and incorporating what we learn into future management regimes (this method enables us to be increasingly efficacious at meeting our goals). Our overarching goal is to identify which species of plants (and which shade- and flood-tolerance characteristics) lead to the most effective onsite retention of stormwater and nitrogen. Data will be collected by local high school students under the auspices of Save the Great South Bay and local AP Science teachers. The EBP funding for this project will go specifically to hard costs (plants and monitoring equipment) and personnel time associated the installation of the flora in the watershed.

Save the Great South Bay will manage and oversee the funding received through this Consent Decree so that the funds will serve solely to fulfill the purpose of the Consent Decree. No portion of the funds received from this settlement will be awarded to Sierra Club or other parties to the agreement. Nor will any portion of the funds be used for lobbying or other political activities. Once these funds are received and put to use for the benefit of the Great South Bay, Save the Great South Bay will submit a letter describing how the funds were spent.

We are grateful to be considered as stewards of the funds from this consent decree, and are excited to put this funding to work immediately for the benefit of the Great South Bay. I am happy to provide additional details or documentation in support of any of the above-reference efforts to restore the ecological structure and function of the Santapogue Creek watershed.

Sincerely,

Marshall Brown

Digitally signed by Marshall Brown
DN: cn=Marshall Brown, o=Save The Great South Bay,
inc., email=marshallbrown@savegreatsouthbay.org,
c=US
Date: 2018.03.30 16:23:07 -0400

Marshall Brown

President,

Save The Great South Bay, Inc.

Defendants.

X

**[PROPOSED] CONSENT
DECREE**

1

- 640 Muncy Avenue, Lindenhurst, NY 11757. This location can be uniquely identified by tax block and lot numbers as District 100, Section 215, Block 1, Lot 18.00 for the Town of Babylon, Suffolk County, NY ("640 Muncy facility")
- 200 Henry Street, Lindenhurst, NY 11757. This location can be uniquely identified by tax block and lot numbers as District 100, Section 215, Block 2, Lot 003.000 for the Town of Babylon, Suffolk County, NY ("200 Henry facility")
- 3896 Long Beach Road, Island Park, NY, 11558. This location can be uniquely identified by tax block and lot numbers as Section 43, Block 404 ("Island Park facility") (collectively "Facilities")

WHEREAS, Sierra Club alleged that the above referenced facilities are engaged in industrial activities categorized under primary Standard Industrial Classification ("SIC") Code Group 32 and therefore any discharge of stormwater associated with these activities is subject to the SPDES Multi-Sector General Permit for the Discharge of Stormwater Associated with Industrial Activity ("General Permit") issued by the New York State Department of Environmental Conservation ("DEC").

WHEREAS, Sierra Club sent a notice of intent to sue letter to Defendants on June 29, 2017 ("Notice Letter"), and filed this action on September 25, 2017, alleging violations of 33 U.S.C. §§ 1311(a) and 1342 of the Clean Water Act ("CWA") seeking declaratory and injunctive relief, civil penalties, and reasonable attorneys' fees and costs.

WHEREAS, Sierra Club alleged in its complaint (the "Complaint") and in its earlier Notice Letter that Defendants have violated and continue to violate CWA Section 33 U.S.C. §§ 1311(a) and 1342 by, inter alia, discharging polluted stormwater associated with industrial activity without coverage under the General Permit.

WHEREAS, Defendants will submit to DEC a Notice of Intent to obtain coverage under the MSGP at the 615 Cord facility, 200 Henry facility, and Island Park facility, and will seek a "no exposure" certification at the 640 Muncy facility.

WHEREAS, without any concession or admission by Defendants that they have violated the Clean Water Act, or any concession or admission by Sierra Club that Defendants' implementation of the measures listed above will prevent all discharge of polluted stormwater or will assure compliance with the terms and conditions of the General Permit, Sierra Club and Defendants (collectively, "the Parties" or individually "Party") agree that it is in their mutual interest to resolve this matter without the taking of evidence or findings of fact or law, and the Parties would like to avoid prolonged and costly litigation.

WHEREAS, this Decree shall be submitted to the United States Department of Justice and the United States Environmental Protection Agency for the 45-day statutory review period, pursuant to 33 U.S.C. § 1365(c);

NOW, THEREFORE, without the trial of any issue of fact or law, without the admission by Defendants of any of the facts or violations alleged in the Complaint, upon consent of the Parties, and upon consideration of the mutual promises contained herein,

**IT IS HEREBY STIPULATED BETWEEN THE PARTIES AND ORDERED,
ADJUDGED AND DECREED BY THE COURT AS FOLLOWS:**

I. DEFINED TERMS

The defined terms set forth in the foregoing recitals are hereby incorporated into the body of this Decree and are made a part hereof. In addition, the following terms used in this Consent Decree ("Decree") have the meaning set forth below:

1. **Effective Date:** the day the Court enters this Decree after the expiration of the forty-five (45) day review period required by 33 U.S.C. § 1365(c)(3).
2. **Term of this Decree:** the period beginning on the Effective Date and ending eighteen (18) months from the Effective Date.
3. **"The Agencies"** shall mean the United States Environmental Protection Agency and the United States Department of Justice.
4. **"Defendants"** shall be the named defendants with the exception of Defendant Nicolia Concrete Products, Inc. and Defendant Robert E. Nicolia.

II. JURISDICTION AND VENUE

5. **Jurisdiction.** Jurisdiction over this action is conferred by 28 U.S.C. § 1331 (federal question), 33 U.S.C. § 1365(a) (Clean Water Act jurisdiction). Sierra Club has standing and has complied with the statutory notice requirements under the CWA, 33 U.S.C. § 1365(a)(1), and the corresponding regulations at 40 C.F.R. § 135.2. An actual, justiciable controversy exists between Sierra Club and Defendants. The requested relief is proper under 28 U.S.C. §§ 2201, 2202, and 33 U.S.C. § 1365(a).
6. **Venue.** Venue is properly vested in this Court pursuant to 33 U.S.C. § 1365(c)(1), because the events giving rise to this action occurred at facilities located in Nassau and Suffolk Counties, which are located within this judicial district.
7. **Consent.** For purposes of this Decree, or any action to enforce this Decree, Defendants consent to the Court's jurisdiction over this Decree and any such action and over Defendants. For purposes of this Decree, Defendants consent to venue in this judicial district.

III. OBTAINING COVERAGE UNDER THE GENERAL PERMIT

8. **Application for Permit Coverage.** Defendants shall submit to DEC a Notice of Intent ("NOI") to obtain coverage under the General Permit for activities occurring at the 615 Cord facility, 200 Henry facility, and Island Park facility, not later than three weeks from the Effective Date of this Decree. Defendants shall provide Sierra Club with prompt

written notice that Defendants have submitted to DEC an NOI, and Defendants shall provide DEC's letter of Acknowledgement of Notice of Intent for Coverage, within fifteen (15) days of receipt thereof.

9. **SWPPP Implementation.** Defendants will implement the attached SWPPPs at the 615 Cord facility, 200 Henry facility, and Island Park facility, respectively, in compliance with the terms of the General Permit, which SWPPPs are hereby incorporated into this Decree (Exhibits A, B, & C), and the Clean Water Act. A failure to adhere to the SWPPP during the term of the Decree is a violation of this Decree.
10. **SWPPP Amendments.** If Defendants are authorized or required by DEC to amend their SWPPPs for any reason during the term of Decree, Defendants shall provide written notice to Sierra Club within thirty (30) days of the amendment, and shall provide Sierra Club with all documents in its possession related to such amendment.
11. **Schedule of Compliance – Sierra Club's Covenant not to Sue.** The General Permit requires aspiring permittees to prepare and fully implement a SWPPP before they are eligible to seek coverage under the General Permit. This Decree requires filing of a Notice of Intent before all structural modifications are complete. But in deference to practical considerations and in light of Defendants continuing good faith efforts to come into full compliance with the Clean Water Act, the Decree allows a one (1) year period for Defendants to complete all structural modifications at the Facility. Provided the Defendants are diligently pursuing implementation of the SWPPP, Defendants may request the consent of Plaintiff for a six (6) month extension for implementation, which consent shall not be unreasonably withheld. Therefore, this Decree requires Defendants to seek permit coverage before fully implementing their SWPPP. Provided that the structural modifications described in the SWPPP are completed on schedule, Sierra Club hereby covenants not to prosecute Defendants' failure to fully implement a SWPPP before seeking coverage under the General Permit and covenants not to challenge Defendants' status under the General Permit during this initial period until the SWPPP is fully implemented.
12. **Compliance with General Permit.** Defendants agree to operate the Facilities in compliance with the applicable requirements of the General Permit and Clean Water Act.
13. **Implemented Storm Water Controls.** Defendants shall maintain in good working order all storm water collection and treatment systems currently installed or to be installed pursuant to this Decree, including but not limited to existing housekeeping measures.

III. NO EXPOSURE CERTIFICATION

14. Defendants will file with DEC a No Exposure Certification Form for Stormwater Permitting for the 640 Muncy facility, not later than three weeks from the Effective Date of the Decree.

IV. PERMIT REVIEW AT OTHER FACILITIES

15. Defendants will conduct a review of the facilities listed in Exhibit D ("Exhibit D facilities"), attached hereto, to assess which of those facilities require permitting under the CWA for industrial stormwater discharges. For any such facilities that Defendants determine require permitting under the CWA, Defendants agree to undertake steps to obtain the required permits. To that end, the parties agree to the following:

- a. Defendants will provide Sierra Club with a written summary, prepared by an environmental engineering firm, of its assessment of which of the Exhibit D facilities Defendants determine require CWA permitting for industrial stormwater discharges, which written summary must be transmitted to Sierra Club no later than three (3) months from the Effective Date of this Decree.
- b. Upon Sierra Club's receipt of the written summary of its assessment described in the preceding paragraph, to the extent necessary, the parties will confer in good-faith should any disagreements arise over which of the Exhibit D facilities require a NPDES or state-equivalent permit for industrial stormwater discharges under the CWA.
- c. Upon written agreement by the parties as to which of the Exhibit D facilities require permit coverage under the CWA, Defendants shall prepare SWPPPs and file applications with the appropriate government agency to obtain the appropriate permit coverage. This step is to be completed on a reasonable timeframe, *i.e.*, on a timeframe commensurate with the number of SWPPPs that will need to be prepared, and the timeframe may thus be contingent upon the number of facilities identified as requiring further compliance under the CWA.

VI. PAYMENTS

16. **Environmental Benefit Payment.** Defendants shall pay an Environmental Benefit Payment ("EBP") to Save The Great South Bay, Inc. (132 Clyde St., West Sayville, New York 11796), for use on projects relating to the reduction, mitigation, and/or remediation of the effects of stormwater pollution or environmental restoration of, or other benefit to Santapogue Creek and the Great South Bay. The EBP amount shall be twenty thousand dollars (\$20,000.00) less any amount that Defendants pay, within three months from the Effective Date, to DEC in penalties for violations arising out of the facts alleged in Sierra Club's complaint. Defendants shall notify Sierra Club's attorney in writing within seven days of any such penalty payment having been made to DEC and provide proof of payment. The amount of \$20,000.00 will be placed in escrow with Defendants' attorney within thirty (30) days of the Parties' execution of the Decree and will be transferred to Sierra Club's attorney, Super Law Group, LLC, on or before the 7th day after the Effective Date of this Decree. The \$20,000 amount shall be payable to "Super Law Group, LLC," which amount will be deposited in Super Law Group's IOLA Trust Account for the benefit of Save The Great South Bay. Super Law Group will disburse the EBP to Save The Great South Bay in an amount consistent with this paragraph, promptly

upon receipt of proof that Defendants have paid a DEC penalty as described above, or three months from the Effective Date, whichever comes sooner. The portion of the \$20,000 that remains in trust after disbursement of the EBP shall be returned to the Defendants.

17. Fees, Costs, and Expenses. Defendants shall pay a sum of Twenty Thousand dollars (\$20,000.00) as full and complete satisfaction of Sierra Club's claims for attorneys' fees and costs incurred to date, including investigative and expert costs. The payment will be placed in escrow with Defendants' attorney within thirty (30) days of the Parties' execution of this Decree and will be transferred to Sierra Club's attorney on or before the 7th day after the Effective Date of this Decree. The check shall be payable to "Super Law Group, LLC". Payments will be deposited in Super Law Group's IOLA Trust Account for the benefit of Sierra Club.

18. Monitoring Related Fees, Costs and Expenses. An additional Two Thousand Five Hundred dollars (\$2,500.00) ("Monitoring Amount") will be placed in escrow with Defendants' attorney within thirty (30) days of the Parties' execution of this Decree and will be transferred to Sierra Club's attorney on or before the 7th day after the Effective Date. The check shall be payable to "Super Law Group, LLC". The Monitoring Amount will be deposited in Super Law Group's IOLA Trust Account for the benefit of Sierra Club. The Monitoring Amount will be used by Sierra Club to pay for attorneys' fees, costs, and expenses, including expert costs incurred to monitor Defendants' compliance with the Term of this Decree. At the conclusion of the aforementioned time-period, any funds that remain of the Monitoring Amount shall be paid to the EBP recipient identified in Paragraph 16.

VII. EFFECT OF DECREE

19. Sierra Club's Release of Liability. Upon Court approval and entry of this Decree, Sierra Club covenants not to sue and releases Defendants (including their subdivisions, parents, affiliates, members, managers and principals representatives, assigns, agents, employees, officers, attorneys and consultants) from any and all claims, causes of action, or liability related to stormwater under Section 505 of the Clean Water Act, 33 U.S.C. § 1365, for damages, penalties, fines, injunctive relief, or any other claim or relief (i) relating to or resulting from noncompliance with the Clean Water Act occurring prior to the Effective Date, and (ii) for any past violations of the Clean Water Act at the Facilities that are the subject of the complaint in this action and the Exhibit D facilities, or violations at the Facilities and Exhibit D facilities that could have been alleged in the Complaint. This Paragraph does not constitute a waiver or release of any claims relating to the enforcement of this Decree.

20. Reservation. Sierra Club does not waive its right to bring a future action for injunctive or declaratory relief, penalties, and attorneys' fees and costs based on stormwater discharges that occur after the Term of this Decree.

21. Defendants' Releases of Liability. Upon Court approval and entry of this Decree, Defendants release and discharge Sierra Club and its representatives, assigns, agents, employees, officers, attorneys and consultants, including those who have held positions in the past, from any and all claims, liability, demands, penalties, costs, and causes of action of every nature which concern or are connected with this action. This Paragraph does not constitute a waiver or release of any claims relating to the enforcement of this Decree.

22. Compliance with Law. Sierra Club does not by consenting to the Decree warrant or aver in any manner that Defendants' compliance with this Decree shall constitute or result in compliance with federal or state law or regulation. Nothing in this Decree shall be construed to affect or limit in any way the obligations of Defendants to comply with all federal, state, and local laws and regulations governing any activity required by this Decree.

23. Impossibility of Performance. Where implementation of the actions set forth in this Decree within the agreed deadlines becomes impossible, despite the timely good faith efforts of the Parties, the Party who is unable to comply shall notify the others in writing within seven (7) days of the date that the failure becomes apparent, and shall describe the reason for the non-performance. The Parties agree to meet and confer in good faith concerning the non-performance and, where the Parties concur that performance was or is impossible, despite the timely good faith efforts of one of the Parties, new performance deadlines shall be established. In the event that the Parties cannot timely agree upon the terms of such a stipulation, either of the Parties shall have the right to seek intervention of the Court.

VIII. FEDERAL REVIEW OF DECREE

24. Review by Agencies. The Parties recognize that, pursuant to 33 U.S.C. § 1365(c)(3), this Decree cannot be entered until forty-five (45) days after the receipt of a copy of the proposed Decree by the Agencies. Therefore, upon signing of this decree by the Parties, Sierra Club shall serve copies of this Decree upon the EPA Administrator, the Regional EPA Administrator, and the Attorney General for review, as required by 40 C.F.R. § 135.5. If for any reason the United States should decline to approve this Decree in the form presented, the Parties agree to continue negotiations in good faith to cure any objection to entry of this Decree raised by the United States.

25. Entry of Order. Upon the expiration of the forty-five-day review period provided by 33 U.S.C. § 1365(c)(3), the Parties shall move the Court for entry of this Decree. This Decree shall take effect on the date it is entered by this Court and shall terminate eighteen (18) months from when it is entered by the Court. If for any reason the Court should decline to approve this Decree in the form presented, the Parties agree to continue negotiations in good faith in an attempt to cure any objection raised by the Court to entry of this Decree.

IX. MODIFICATION AND ENFORCEMENT OF DECREE

26. **Modification in Writing.** This Decree may be modified only upon written consent of the Parties and the approval of the Court.
27. **Continuing Jurisdiction of the Court.** The United States District Court for the Eastern District of New York shall retain and shall have jurisdiction over the Parties to this Decree for the resolution of any disputes that may arise under this Decree during its Term. This Court shall also allow this action to be reopened for the purpose of enabling the Parties to this Decree to apply to the Court for any further order that may be necessary to construe, carry out, enforce compliance and/or resolve any dispute regarding the terms or conditions of this Decree.
28. **Notice.** No legal action to enforce this Decree shall be brought or maintained until: (a) the non-breaching Party provides written notice to the breaching Party which explains with particularity the nature of the claimed breach; and (b) within thirty (30) days after receipt of said notice, the breaching Party fails to cure the claimed breach or, in the case of a claimed breach which cannot be reasonably remedied within a thirty (30) day period, the breaching Party fails to commence to cure the claimed breach within such thirty (30) day period, and thereafter diligently completes the activities necessary to remedy the claimed breach.

X. DISPUTE RESOLUTION PROCEDURE

29. **Meet and Confer.** Except as specifically noted herein, any disputes with respect to any of the provisions of this Decree shall be resolved through the following procedure. The Parties agree to first meet and confer to resolve any dispute arising under this Decree. In the event that such disputes cannot be resolved through this meet and confer process, the Parties agree to request a settlement meeting before the Court. In the event that the Parties cannot resolve the dispute by the conclusion of the settlement meeting with the Court, the Parties agree to submit the dispute via motion to the Court.
30. **Fee Awards.** In resolving any dispute arising from this Agreement, the Court shall have discretion to award attorneys' fees and costs. The relevant provisions of the then applicable Clean Water Act and Rule 11 of the Federal Rules of Civil Procedure shall govern the allocation of fees and costs in connection with the resolution of any disputes before the Court.

XI. MISCELLANEOUS PROVISIONS

31. **Entire Agreement.** This Decree constitutes the entire agreement among the Parties concerning the subject matter hereof and supersedes all previous correspondence,

communications, agreements and understandings, whether oral or written, among the Parties.

32. **Notices.** Any notice, demand, copies of documents and other communications required to be made under the provisions of this Decree (collectively, "Notices") by any Party hereto shall be effective only if in writing and (a) personally served, (b) mailed by United States registered or certified mail, return receipt requested, postage prepaid, or (c) sent by a nationally recognized courier service (i.e., Federal Express), to be confirmed in writing by such courier. Notices shall be directed to the Parties at their respective addresses set forth below. Notices given in the foregoing manner shall be deemed given (a) when actually received or refused by the party to whom sent if delivered by courier, or (b) if mailed, on the day of actual delivery as shown by the addressee's registered or certified mail receipt, or at the expiration of three (3) business days after the date of mailing, whichever first occurs.

Notices for Sierra Club shall be sent to:

Nicholas W. Tapert

Edan Rotenberg

Super Law Group, LLC

180 Maiden Lane, Suite 603

New York, NY, 10038

Attorney for Sierra Club

Aaron Isherwood

Coordinating Attorney, Sierra Club, Inc.

2101 Webster St., Suite 1300

Oakland, CA 94612

Notices sent to the individual listed above at the address listed above shall be deemed as notice to Sierra Club.

Notice for all Defendants shall be sent to:

Denise J. D'Ambrosio, Esq.

Allen & Desnoyers LLP

One North Lexington Avenue, 15th Floor

White Plains, New York 10601

Chris Nicolai, Esq.

Nicolai Industries

612 Muncy Avenue

Lindenhurst, New York 11757

Notices sent to the individual listed above at the address listed above shall be deemed as notice to all Defendants.

Each Party shall promptly notify the other Party of any change in the above-listed contact information by using the procedures set forth in this paragraph.

33. **Authorization.** Each person signing this Decree represents and warrants that s/he has been duly authorized to enter into this Decree by the Party on whose behalf it is indicated that the person is signing.
34. **Successors and Assigns.** This Decree shall be binding upon and inure to the benefit of the Parties and their respective representatives, heirs, executors, administrators, successors, officers, directors, agents, attorneys, employees and permitted assigns.
35. **Transfer of Ownership.** Defendants shall notify Sierra Club prior to any transfer of ownership or control of the Facilities to a non-Party during the Term of this Decree. Defendants agree that as a condition of transfer of ownership or control of the Facility, the new owner or operator shall be informed in writing of this Decree and of its requirements to comply with the Clean Water Act.
36. **Interpretation.** The provisions contained herein shall not be construed in favor of or against any Party because that party or its counsel drafted this Decree, but shall be construed as if all Parties prepared this Decree, and any rules of construction to the contrary are hereby specifically waived. The terms of this Decree were negotiated at arm's length by the Parties hereto. The language in all parts of this Decree shall be construed according to its plain and ordinary meaning, except as to those terms defined by law, in the General Permit, Clean Water Act or specifically herein.
37. **Headings.** The section and paragraph headings contained in this Decree are for reference purposes only and shall not affect in any way the meaning or interpretation of this Decree.
38. **Counterparts.** This Decree may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. The Parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Decree. Telecopied, scanned (.pdf), and/or facsimiled copies of original signature shall be deemed to be originally executed counterparts of this Decree. Copies of the original Decree, whether transmitted by facsimile or other means, shall be effective.
39. **Severability.** In the event that any of the provisions of this Decree are held by a court to be unenforceable, the validity of the enforceable provisions shall not be adversely affected.
40. **Joint and Several Liability.** Defendants are jointly and severally liable for all payments required under this Decree.

41. **Changes to the General Permit.** Defendants will comply fully with the General Permit and any permit modification, individual permit, or General Permit reissuance applicable to the Facility during the Term of this Decree. If new or revised benchmark monitoring cutoff concentrations or effluent limitations (numeric or non-numeric) become applicable, compliance with them is required and any exceedance of a new or modified benchmark monitoring cutoff concentration or effluent limitation will have the same effect as any exceedance of an existing benchmark monitoring cutoff concentration or effluent limitation.

XII. EXHIBITS

42. The following exhibits are attached to this Decree and made a part hereof:

- a. Exhibit A: the SWPPP for 615 Cord facility
- b. Exhibit B: the SWPPP for 200 Herry facility
- c. Exhibit C: the SWPPP for Island Park facility
- d. Exhibit D: Additional Facility List

Dated: 5/1/2018

Nicolia Ready Mix, Inc.

By: 

Title:

Dated: 5/1/2018

Nico, ock Paving Stones, LLC

By: 

Title:

Dated: 5/1/2018

Robert L. Nicolia

Dated: 4/30/18

Sierra Club, Inc.

Jane Fasullo

By: Jane Fasullo

Title: chair, Long Island Group of the
Sierra Club

ENTERED and DATED this ____ day of _____, 2018

Honorable Arthur D. Spatt
United States District Judge

Exhibit A

Stormwater Pollution Prevention Plan

**Nicolia Ready Mix
615 Cord Avenue
Lindenhurst, NY 11757**

**12/12/17
(Rev. 1)**

Prepared for:

**Owner
S. Nicolia & Sons Realty**

612 Muncy Avenue
Lindenhurst, NY 11757

**Operator
Nicolia Ready Mix**

612 Muncy Avenue
Lindenhurst, NY 11757

Prepared by:

P.W. GROSSER CONSULTING, INC.

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SWPPP Certification

I hereby certify that the Stormwater Pollution Prevention Plan (SWPPP) for this project has been prepared in accordance with the terms and conditions of the GP-0-12-001. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of this permit and the laws of the State of New York and could subject me to criminal, civil, and/or administrative proceedings.

Bryan Grogan, P.E.
Senior Project Manager

Date

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1.0 Facility Information

This Stormwater Pollution Prevention Plan (SWPPP) has been prepared on behalf of S. Nicolia & Sons Realty. The SWPPP is being prepared to satisfy the requirements of the General Permit (GP-0-12-001) issued by the New York State Department of Environmental Conservation (NYSDEC). This SWPPP has been prepared in accordance with the latest requirements of the New York State Standards and Specifications for the Multi-Sector General Permit (MSGP). The SWPPP has been developed to maximize the potential benefits of pollution prevention and use of best management practices (BMP) consistent with the subject properties sector classification. Drawings of the site showing the existing conditions and proposed BMP's are included as an appendix to this SWPPP.

1.1 Project Description

The site is currently utilized as a concrete ready mix facility, which is classified as a Sector E use, and Standard Industrial Classification (SIC) Code 3273 – Ready-Mixed Concrete. No changes to the use of facility are proposed at this time. The existing site is 100 percent impervious.

1.2 Site Description

The site is located at 615 Cord Avenue, in Lindenhurst, New York. The lot can be uniquely identified as Suffolk County Tax Map (SCTM) Numbers 100-215-2-42.1 and 100-215-2-69.1.

The site is currently improved and measures approximately 270,072 square feet or 6.2 acres in size. The site is currently improved with two one story industrial/office buildings of approximately 10,000 square feet in size. One building is currently utilized as the control room for the ready-mix facility and offices. The other building is utilized as a maintenance facility. The outdoor concrete batching plant is located immediately adjacent to the office building located along Cord Avenue. Additionally, the property includes raw material stockpiles, surrounded by jersey barriers as well as a truck washing facilities, and a sedimentation tanks.

The site topography is generally flat across the site. Currently storm water on the site is contained on site, with the possible exceptions of the site entrances, Cord Avenue. Currently in the area of the site entrances storm water has the potential to leave the site and enter the adjacent roadways. Once on the roadways the storm water is conveyed to catch basins, which ultimately convey storm water to Santapogue Creek.

The Federal Emergency Management Agency (FEMA) indicates that the site is located within the Flood Zone Other Areas Zone X (Areas determined to be outside the 0.2% annual; chance floodplain).

The nearest surface water body likely to receive stormwater runoff from the site is Santapogue Creek which is located approximately 330 feet west of the site. Refer to Figure G-100 – Title Sheet for a location

of the site. Santapouge Creek, is not currently listed as an impaired water body by The NYSDEC. According to the New York State Cultural Resource Information System (CRIS) the site does not contain nor is the site adjacent to historic properties or archeological sensitive areas. Additionally the New York State Environmental Resource Mapper (ERM) indicates that there are no listed threatened and endangered species on the property.

The site is not currently covered by another SPDES permit, since the manufacturing process does not produce process wastewater or utilize non-contact cooling water. The sanitary wastewater generated on site is disposed into the Suffolk County Sewer District # 3 (SCSD#3).

1.3 Adjacent Property

Land use of the surrounding properties consist of industrial properties located on the north, south, east and west sides of the property.

1.4 Soils

A soil survey for the site was completed as part of the National Cooperative Soil Survey by the joint effort of the National Resources Conservation Service United States Department of Agriculture and other State and Local agencies. The soil survey was most recently updated in 2014. The soil survey indicates that the soil on the site consists of 69.1% Cut and Fill Land (CuB), 23.7% Fill Land (Fs), 5.5% Berryland Mucky Sand (Bd) and 1.7% Haven Loam (HaA).

1.5 Groundwater

To determine the depth to groundwater the USGS "Long Island Depth to Water Viewer" website (<http://ny.water.usgs.gov/maps/li-dtw10/>), which uses groundwater data that was compiled from April 2010 to May 2010, was consulted. The viewer indicated that the depth to groundwater on site is approximately 9 feet from surface grade.

2.0 Potential Pollutant Sources

The purpose of this section is to identify and address pollutants and activities that could impact stormwater. Site-related pollutants include concrete raw materials, concrete finished products, concrete dust, vehicle oils, and diesel fuel. Site-related pollutants can originate from the handling of raw and finished materials, waste disposal and vehicular traffic. This section also serves to identify the types of BMP's that will be used during site activities. These BMP's will provide controls to reduce possibilities of stormwater contamination, divert stormwater runoff and remove sediments.

2.1 Identification and Control of Potential Stormwater Pollutants

The purpose of this subsection is to identify and address pollutants that could impact stormwater during industrial activities.

2.1.1 Significant Material Inventory

Pollutants that result from the industrial activities on the site that have the potential to be present in stormwater runoff are listed in Table 2-1. This table includes information regarding material type, chemical and physical description, and the specific regulated stormwater pollutants associated with each material.

Table 2-1
Potential Site Stormwater Pollutants

Trade Name Material	Chemical/Physical Description	Stormwater Pollutants
Hydraulic oil/fluids	Brown oily petroleum hydrocarbon	Mineral oil
Gasoline	Colorless, pale brown or pink petroleum hydrocarbon	Benzene, ethylbenzene, toluene, xylenes
Diesel Fuel	Clear, blue-green to yellow liquid	Petroleum distillate, oil & grease, naphthalene, xylenes
Antifreeze/coolant	Clear green/yellow liquid	Ethylene glycol, propylene glycol, heavy metals (copper, lead, zinc)
Concrete Sand	Solid particles	Soil, sediment
Portland Cement	Solid particles	Sediment
Concrete Aggregate	Solid particles	Sediment

2.1.2 Potential Areas for Stormwater Pollution

The site can reasonably spill into the following key areas:

- Outdoor Ready Mix Plant (Area A)
- Raw Material Stockpiles (Area B)
- Loading/Unloading (Area C)
- Truck Parking Area (Area D)
- Truck Washing/Washout Area (Area E)

The aforementioned areas can be described as follows:

- Outdoor Ready Mix Plant – The concrete batching plant and its associated raw material conveyer system are centrally located on the site. Concrete batched is dispensed below the plant directly into the concrete trucks prior to delivery offsite. The raw materials storage area associated with the conveyor, the conveyor and batching plant are currently exposed to the atmosphere and are therefore susceptible to stormwater.
- Raw Material Stockpiles – The site contains three raw material stockpile areas. The main two stockpiles are located along the west and east sides of the property. The third stock pile area is centrally located on the property adjacent to the batching plant. All of the stockpiles are lined by jersey barriers, in fact aside from the entrances along Cord Avenue, the entire perimeter of the site is surrounded by jersey barriers. All of the stockpiles are exposed to the atmosphere and are therefore susceptible to stormwater.
- Loading/Unloading Areas – The raw materials are utilized by the facility daily, construction equipment transports the raw materials from the outdoor stockpiles to the stockpile associated with the conveyors as needed. Additionally new raw materials are trucked to and from the site on a regular basis.
- Truck Parking Area – The concrete delivery trucks are parked in this area in the evening. During the winter months the fresh water tanks on the trucks are drained in this area to prevent the tanks and water hoses on the truck from freezing.
- Truck Washing/Washout Area – The truck washing area is utilized by the maintenance staff to pressure wash the exterior of the trucks. The wash water is currently collected via a trench drain and directed to drywell. The concrete washout areas contain a fresh water filling station, located just inside the main entrance. The area also contains two settling basins and a water reuse system. The trucks washout any unused concrete into the settling tanks where the concrete settles and the excess water is pulled into the reuse system. Once the concrete is

dried it is removed from the settling tank and sent to an offsite facility for reuse. The water is reused on site for washout purposes.

2.1.3 Potential Sources of Stormwater Pollution

The following potential source areas of stormwater pollution were identified and evaluated:

- Site entrances;
- Raw Material Storage Areas;
- Outdoor Ready Mix Plant;
- Loading and Unloading Areas;
- Truck Parking Areas;
- Truck Washing/Washout Areas;
- Waste Material Storage Areas;

Table 2-2 presents site-specific information regarding the stormwater pollution potential from each of these areas.

Table 2-2
Locations of Potential Sources of Stormwater Pollution

Potential Storm Water Pollution Points	Potential Pollutants	Potential Problem
Site entrance, loading and unloading areas, truck washing areas	Asphalt, hydraulic oil, gasoline, antifreeze, sediment	Accidental leaking hydraulic oil and antifreeze from loading equipment. Tracking of sediment into the road through the site entrance(s).
Waste material storage areas	Trash, debris	Trash and debris not properly stored may have the potential to discharge to stormwater.
Outdoor ready mix plant areas, truck washout areas	Concrete, sediment	Spillage from outdoor manufacturing and concrete washout areas has the potential to be conveyed by stormwater.
Raw material storage areas	Sediment, sand, aggregate, Portland cement	Erosion of exposed and stockpiled raw materials

2.2 Best Management Practices for Stormwater Pollution Prevention

2.2.1 Good Housekeeping Practices to Minimize Stormwater Pollution

Good housekeeping and spill control practices will be followed during site activities to minimize stormwater contamination from concrete, raw materials, petroleum products and waste materials. Good housekeeping and spill control practices include the following:

- Materials and equipment necessary for spill cleanup shall be maintained onsite. Equipment will include, but is not limited to brooms, dust pans, mops, rags, gloves, goggles, plastic trash containers and trash liners;
- On-site vehicles shall be monitored for leaks and will receive regular preventive maintenance to reduce the possibility of leakage;
- Petroleum products shall be stored in tightly sealed containers which are clearly labeled;
- Spill kits shall be included with all fueling sources and maintenance activities;
- Spills shall be cleaned up immediately upon discovery. Spills large enough to reach the storm system will be reported to the National Response Center at 1-800-424-8802;
- Dump trucks hauling material from the site shall be covered with a tarpaulin;
- Paved streets adjacent to the site entrances shall be swept as needed to remove excess mud, dirt, or rock tracked from the site;
- Waste materials shall be collected and stored in securely covered metal dumpsters rented from a licensed solid waste management company. Trash and debris from the site will be deposited in the dumpsters. The dumpsters will be emptied at regular intervals and the trash will be hauled to a solid waste landfill.
- The entire property shall be swept, via mechanical equipment daily, to remove acclimated sediment from the property.
- Raw material stockpiles, shall be swept after loading and unloading activities to minimize the expansion of the stockpiles beyond the walls of the stockpile area.
- Concrete washout areas, shall be inspected to ensure they have not exceeded storage capacities. These areas shall also be cleaned to ensure spilled materials are not tracked throughout the site.

Vehicles and construction equipment shall be inspected to ensure fluids, oils, and lubricants are not leaking and the fuels and fluids are stored in properly labeled containers. Spills, leaking fluids, and/or improperly stored fluids shall be brought to the attention of the plant operator immediately. Applicable regulations governing the storage, transport, use and disposal of fluids and reporting requirements for spills shall be adhered to. If a release of a chemical, fluid, or petroleum occurs it must be reported to the

designated Site Safety Inspector and the New York State Department of Environmental Conservation (NYSDEC) Spill Division (1-800-457-7362).

Chemicals stored in staging areas shall have appropriate Material Safety Data Sheets (MSDS). Petroleum products and chemical substances shall be managed in a manner to minimize potential threats to human health and the environment. Oily rags used for equipment maintenance shall be stored in an acceptable containment structure and lawfully disposed of. Trash and other debris generated by site activities shall not be buried but placed in the appropriate dumpster(s).

2.2.2 Sediment Control

Sediment-laden stormwater runoff generated from site activities that could possibly impact a surface water body will be controlled where appropriate. Sediment controls include trench drains, stormwater drywells and dust control measures. The attached drawings show the location of the proposed BMP's.

Trench Drains

A trench drain currently exists in the truck wash area to collect water used to clean the exterior of the trucks. Trench drains are proposed to be installed across the width of the existing site entrances as well as in the truck parking areas. The trench drains will collect stormwater before it exits the property and convey it to proposed stormwater drywells.

Stormwater Drywells

In addition, to the stormwater drywells associated with the proposed trench drains, additional stormwater drywells will be installed in the loading and unloading areas. These drywells will capture localized stormwater in these areas to minimize the amount of stormwater flowing towards the site entrance points.

Dust Control

Dust (particulate matter) control measures shall be implemented as needed on the site.

The following dust control measures shall be implemented in driving areas:

- Limit on-site vehicle speed limits.
- Spray water from a domestic water supply on dry material being offloaded from trucks that might release dust.
- Cover trucks carrying loose material such as debris generated by site activities and raw materials are covered and verify that the covers are properly sealed.

The following dust control measures shall be implemented at raw material stockpiles in non-driving areas:

Spray water from a domestic water supply on stockpiles with appropriate distribution equipment that shall be kept on-site throughout the duration of the site activities.

3.0 Maintenance

3.1 Inspection Procedures

Regular visual inspections of potential stormwater pollution areas are vital in the process of identifying and correcting problems before pollution has an opportunity to occur. Repair of any items shall be handled on a priority basis. The originals of the completed inspection forms are kept with the SWPPP.

In addition to these inspections, a number of regularly scheduled inspections are conducted as described below:

Daily inspections include the following items:

Overall Facility:

- General condition of facility (debris, etc);
- Security fire / Safety deficiencies (locked gates); and
- Fuel spills / Leaks.
- Stockpiles / Sediment

Weekly inspections include the following items:

Overall Facility:

- Stormwater trench drains and drywells (presence of sediment, accumulated water, etc)

3.2 Maintenance Procedures

Corrective and preventive maintenance is performed in conjunction with the daily and weekly inspection procedures described in above. The corrective actions would include the follow:

- Sweeping of sediment from the facility;
- Sweeping of raw materials back into their respective stockpile areas;
- Implementation of dust control as necessary during loading/unloading of raw materials;
- Removal of sediment from stormwater trench drains and drywells.
- Visual checks on the settling tanks to ensure they have adequate capacity and are being emptied on a regular basis.

The completed preventative or corrective maintenance forms are maintained within the facility's SWPPP.

3.3 Ongoing Evaluation of BMP's / Deficiencies / Modifications

The facility personnel shall during the course of their regular inspection shall evaluate the performance of the existing BMP's. If any deficiencies are observed they shall be documented, addressed, corrected and monitored in accordance with NYSDEC SWPPP regulations. If additional BMP's or increased frequency of BMP's or maintenance of BMP's are required they should be documented in accordance with SWPPP regulations.

3.4 Employee Training

Employee and outside contractor training programs must inform personnel responsible for implementing activities identified in the SWPPP of the components and goals of the SWPPP. Training must address topics such as spill response, good housekeeping, and material management practices. The SWPPP must also identify periodic dates for such training.

Nicolia Ready Mix (NRM) conducts training and reviews general SWPPP issues with employees when they start work and at least annually. NRM reviews their training program annually to determine its effectiveness and make any necessary changes to the program. Workers in critical areas (i.e., unloading personnel) also have specific SWPPP procedures and activities emphasized in their training. All specific SWPPP training conducted by NRM will be documented and retained with the SWPPP.

Periodic employee meetings will cover the following items:

- Environmental or health and safety incidents,
- Upcoming training sessions,
- Brief reminders on good housekeeping, pollution prevention and response procedures, and material handling practices, and
- New management procedures or other changes to the SWPPP.

Employee training program topics will include the following:

Good Housekeeping:

- Review and demonstrate basic cleanup procedures,
- Indicate proper disposal methods and locations, and
- Inform employees with emergency contacts and telephone numbers.

4.0 Monitoring and Sampling Data

4.1 Monitoring and Sampling Protocols

Sample Location(s). Describe where samples will be collected, including any determination that two or more outfalls are substantially identical.

TD01 is located on the north side of the facility adjacent to the site entrance along Cord Avenue.
 TD02 is located on the south side of the facility adjacent to the truck parking area along Bond Boulevard.

Pollutant Parameters to be sampled. Include a list of the pollutant parameters that will be sampled and the frequency of sampling for each parameter.

TD01 & TD02 – Total Suspended Solids
 pH

Numeric Limitations. List here any pollutant parameters subject to numeric limits (effluent limitations guidelines), and which outfalls are subject to such limits.

	<u>Daily Avg</u>	<u>Daily Max</u>
Total Suspended Solids	50 mg/L	NA
pH	6.0 to 9.0 SU	

Sampling Procedures. Describe procedures you will follow for collecting samples, including responsible staff who will be involved, logistics for taking and handling samples, etc.

The sampling of stormwater runoff will be conducted in accordance with the Quarterly Visual Monitoring requirements following a qualifying storm event of greater than 0.1 inch rainfall. The samples will be evaluated by trained facility staff and will be documented utilizing the quarterly visual monitoring forms.

Once per year the facility staff will collect a sample following a qualify storm event to be sent to a local ELAP certified laboratory of analysis of the pollutants listed above in the numeric limitations section. All samples will be documented, and sent to a local laboratory along with a chain of custody for analysis.

The samples results will be reviewed by facility staff for compliance with the limitations mentioned above. If the samples results indicate exceedances of the limitations facility staff shall take the appropriate corrective action to remedy the cause of the exceedance. Results of all samples shall be kept with the SWPPP.

5.0 Responsible Parties

The following facilities representatives shall be responsible for the inspections, monitoring, reporting and sampling associated with the SWPPP:

Name	Position	Contact Number
Kevin Brennan (Primary)	Maintenance Superintendent	(631)339-8057
Alex Nicolai	Maintenance Superintendent	(631)487-9018

6.0 Certifications**6.1 Contractors & Subcontractors Certifications**

"I hereby certify that I understand and agree to comply with the terms and conditions of the SWPPP and agree to implement any corrective actions identified by the qualified inspector during a site inspection. I also understand that the owner or operator must comply with the terms and conditions of the most current version of the New York State Pollutant Discharge Elimination System ("SPDES") general permit for stormwater discharges from site activities and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of the referenced permit and the laws of the State of New York and could subject me to criminal, civil and/or administrative proceedings."

Trained Contractor's Name

Signature

Title

Responsible for the following SWPPP Measures:

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

Firm Name

Firm Address

Firm Telephone Number

Site Address

Certification Date

FIGURES

SITE PLANS

ISSUED FOR:	PERMIT
DATE ISSUED:	12-13-17
LATEST ISSUE:	12-13-17

No	DRAWING TITLE	LATEST ISSUE
G-100	TITLE SHEET	DECEMBER 13 2017
G-100	EXISTING CONDITIONS SITE PLAN	DECEMBER 13 2017
G-101	PROPOSED SITE PLAN	DECEMBER 13 2017

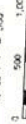
PROPERTY INFORMATION

SITE
1111 GARD AVE
TAYLOR
APR 21 1964
AREA
LATTICE
CONCRETE 12" X 12"



VICINITY MAP

SCALE: 1" = 500'





PWGC

Planning, Engineering and Engineering Solutions

3000 Peachtree Industrial Blvd., Suite 100
Atlanta, Georgia 30328
Phone: 404.525.4200 Fax: 404.525.4201
Email: PWGC@PWGC.COM

PROJECT: C-100
SHEET: 1 OF 3

DATE: 12/15/03

BY: [Signature]

CHECKED: [Signature]

APPROVED: [Signature]

SCALE: 1" = 40'

PROJECT: C-100

SHEET: 1 OF 3

DATE: 12/15/03

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SCALE: 1" = 40'

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DATE: 12/15/03

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SCALE: 1" = 40'

PROJECT: C-100

SHEET: 1 OF 3

DATE: 12/15/03

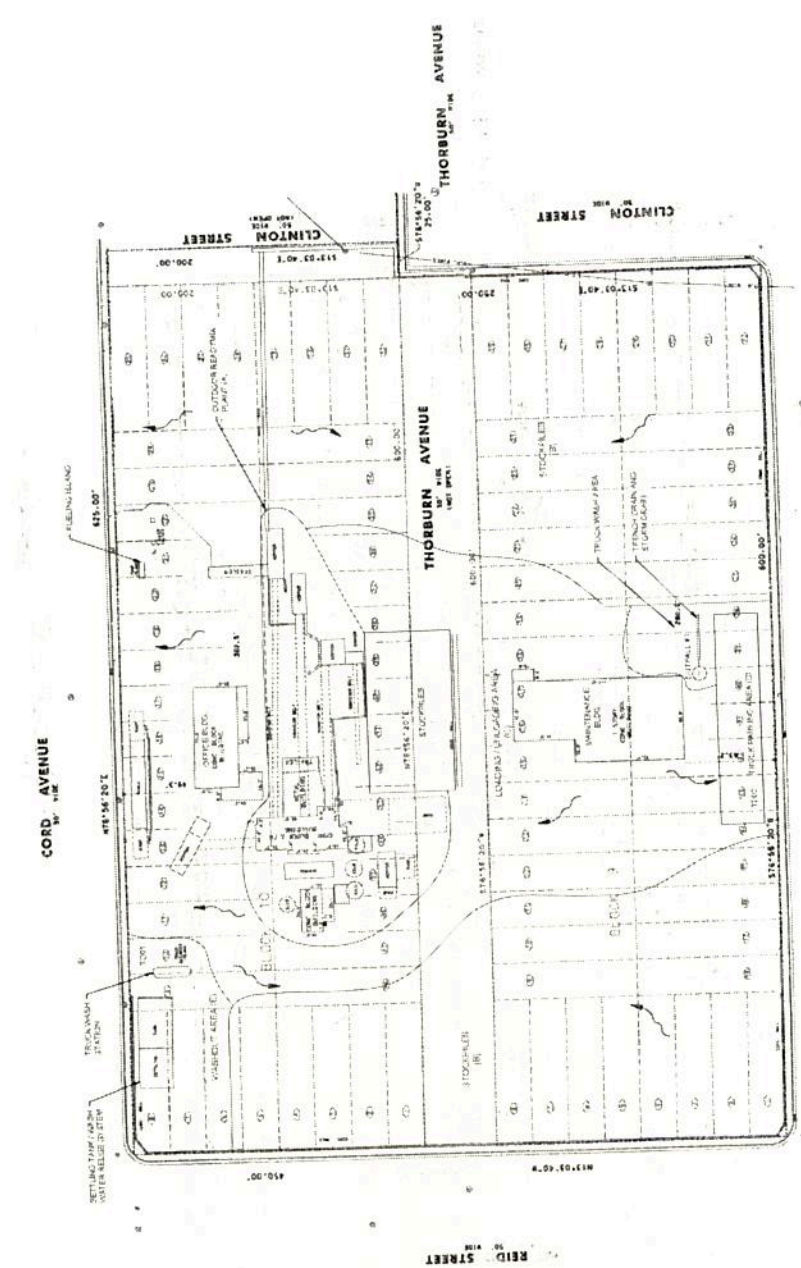
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APPROVED: [Signature]

SCALE: 1" = 40'

PROJECT: C-100



**EXISTING CONDITIONS
SITE PLAN**
SCALE: 1" = 40'

BOND BOULEVARD

REID STREET

CORD AVENUE

THORBURN AVENUE

CLINTON STREET

THORBURN AVENUE

CLINTON STREET

THORBURN AVENUE

CLINTON STREET

THORBURN AVENUE

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THORBURN AVENUE

CLINTON STREET

THORBURN AVENUE

Exhibit B

Stormwater Pollution Prevention Plan

**Nicolock Paving Stones LLC
200 Henry Street**

**12/12/17
(Rev. 1)**

[Faint, illegible text]

Prepared for:

**Owner
Roman Development, LLC**

*612 Muncy Avenue
Lindenhurst, NY 11757*

**Operator
Nicolock Paving Stones LLC**

*612 Muncy Avenue
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SWPPP Certification

I hereby certify that the Stormwater Pollution Prevention Plan (SWPPP) for this project has been prepared in accordance with the terms and conditions of the GP-0-12-001. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of this permit and the laws of the State of New York and could subject me to criminal, civil, and/or administrative proceedings.

Date

Bryan Grogan, P.E.
Senior Project Manager

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LIST OF FIGURES

Figure G-100 – Title Sheet

Figure C-100 – Existing and Proposed Site Plans

1.0 Facility Information

This Stormwater Pollution Prevention Plan (SWPPP) has been prepared on behalf of Roman Development, LLC. The SWPPP is being prepared to satisfy the requirements of the General Permit (GP-0-12-001) issued by the New York State Department of Environmental Conservation (NYSDEC). This SWPPP has been prepared in accordance with the latest requirements of the New York State Standards and Specifications for the Multi-Sector General Permit (MSGP). The SWPPP has been developed to maximize the potential benefits of pollution prevention and use of best management practices (BMP) consistent with the subject properties sector classification. Drawings of the site showing the existing conditions and proposed BMP's are included as an appendix to this SWPPP.

1.1 Project Description

The site is currently utilized as a paving stone manufacturing facility, which is classified as a Sector E use, and Standard Industrial Classification (SIC) Code 3271 – Concrete Block and Brick. No changes to the use of facility are proposed at this time. The existing site is approximately 100 percent impervious, with the exception of small planters adjacent to the building.

1.2 Site Description

The site is located at 200 Henry Street, in Lindenhurst, New York. The lot can be uniquely identified as Suffolk County Tax Map (SCTM) Number 100-215-2-3.

The site is currently improved and measures approximately 122,403 square feet or 2.81 acres in size. The site is currently improved with a one story industrial/office building of approximately 37,600 square feet in size. The building is currently utilized as a paving stone manufacturing facility along with office space. The manufacturing facility is located indoors, with the exception of the existing concrete batching plant which is located adjunct to the west side of the building. It is currently proposed to enclose the concrete batching plant, such that the entire manufacturing process would be indoors. Additionally, the property includes raw material stockpiles, surrounded by jersey barriers as well as approximately 650 square foot covered stockpile associated with the batching plant.

The site topography is generally flat across the site. Currently storm water on the site is contained on site, with the possible exceptions of the two site entrances, on Muncy Avenue and Cord Avenue respectively. Currently in the area of the two entrances storm water has the potential to leave the site and enter the adjacent roadways. Once on the roadways the storm water is conveyed to catch basins, which ultimately convey storm water to Santapogue Creek.

The Federal Emergency Management Agency (FEMA) indicates that the site is located within the Flood Zone Other Areas Zone X (Areas determined to be outside the 0.2% annual; chance floodplain).

The nearest surface water body likely to receive stormwater runoff from the site is Santapogue Creek which is located approximately 1,095 feet west of the site. Refer to Figure G-100 – Title Sheet for a location of the site. Santapogue Creek, is not currently listed as an impaired water body by The NYSDEC. According to the New York State Cultural Resource Information System (CRIS) the site does not contain nor is the site adjacent to historic properties or archeological sensitive areas. Additionally the New York State Environmental Resource Mapper (ERM) indicates that there are no listed threatened and endangered species on the property.

The site is not currently covered by another SPDES permit, since the manufacturing process does not produce process wastewater or utilize non-contact cooling water. The sanitary wastewater generated on site is disposed into the Suffolk County Sewer District # 3 (SCSD#3).

1.3 Adjacent Property

Land use of the surrounding properties consist of industrial properties located on the north, south and west sides of the property. The east side of the property abuts Henry Street and the adjacent railroad tracks.

1.4 Soils

A soil survey for the site was completed as part of the National Cooperative Soil Survey by the joint effort of the National Resources Conservation Service, United States Department of Agriculture and other State and Local agencies. The soil survey was most recently updated in 2014. The soil survey indicates that the soil on the site consists of 96.4% Urban Land (Ur), 3.3% Cut and Fill Land (CuB) and 0.3% Riverhead Sandy Loam (RdA).

1.5 Groundwater

To determine the depth to groundwater the USGS "Long Island Depth to Water Viewer" website (<http://ny.water.usgs.gov/maps/li-dtw10/>), which uses groundwater data that was compiled from April 2010 to May 2010, was consulted. The viewer indicated that the depth to groundwater on site is approximately 9 feet from surface grade.

2.0 Potential Pollutant Sources

The purpose of this section is to identify and address pollutants and activities that could impact stormwater. Site-related pollutants include concrete raw materials, concrete finished products, concrete dust, vehicle oils, and diesel fuel. Site-related pollutants can originate from the handling of raw and finished materials, waste disposal and vehicular traffic. This section also serves to identify the types of BMP's that will be used during site activities. These BMP's will provide controls to reduce possibilities of stormwater contamination, divert stormwater runoff and remove sediments.

2.1 Identification and Control of Potential Stormwater Pollutants

The purpose of this subsection is to identify and address pollutants that could impact stormwater during industrial activities.

2.1.1 Significant Material Inventory

Pollutants that result from the industrial activities on the site that have the potential to be present in stormwater runoff are listed in Table 2-1. This table includes information regarding material type, chemical and physical description, and the specific regulated stormwater pollutants associated with each material.

Table 2-1
Potential Site Stormwater Pollutants

Trade Name Material	Chemical/Physical Description	Stormwater Pollutants
Hydraulic oil/fluids	Brown oily petroleum hydrocarbon	Mineral oil
Gasoline	Colorless, pale brown or pink petroleum hydrocarbon	Benzene, ethylbenzene, toluene, xylenes
Diesel Fuel	Clear, blue-green to yellow liquid	Petroleum distillate, oil & grease, naphthalene, xylenes
Antifreeze/coolant	Clear green/yellow liquid	Ethylene glycol, propylene glycol, heavy metals (copper, lead, zinc)
Concrete Sand	Solid particles	Soil, sediment
Portland Cement	Solid particles	Sediment
Concrete Aggregate	Solid particles	Sediment

2.1.2 Potential Areas for Stormwater Pollution

The site can reasonably split into the following key areas:

- Outdoor Manufacturing (Area A)
- Raw Material Stockpiles (Area B)
- Finished Product Storage (Area C)

The aforementioned areas can be described as follows:

- Outdoor Manufacturing – The only portion of the manufacturing process that is currently located outdoors, is the concrete batching plant and its associated raw material conveyor system. These systems are located adjacent to the west side of the building. Concrete is dispensed below the plant onto a conveyor which transports the raw concrete into the building for further processing. The raw materials storage area associated with the conveyor is covered with an existing metal roof and therefore protected from stormwater. The conveyor and batching plant are currently exposed to the atmosphere and are therefore susceptible to stormwater.
- Raw Material Stockpiles – The site contains two raw material stockpile areas. The first is the covered area associated with the conveyor system for the batching plant. The second area is comprised of three open stockpile areas. The open stockpiles have jersey barrier walls on three sides to contain the raw materials. The raw materials are utilized by the facility daily, construction equipment transports the raw materials from the outdoor stockpiles to the covered stockpile associated with the conveyors as needed.
- Finished Product Storage – The finished product storage area is the largest use on the property. The finished concrete pavers are stored on wrapped pallets through this area. Finished products are loaded onto flatbed trucks for shipment in this area.

2.1.3 Potential Sources of Stormwater Pollution

The following potential source areas of stormwater pollution were identified and evaluated:

- Site entrances;
- Raw Material Storage Areas;
- Outdoor Manufacturing Areas;
- Loading and Unloading Areas;
- Waste material storage Areas;

Table 2-2 presents site-specific information regarding the stormwater pollution potential from each of these areas.

Table 2-2
Locations of Potential Sources of Stormwater Pollution

Potential Storm Water Pollution Points	Potential Pollutants	Potential Problem
Site entrance, loading and unloading areas	Asphalt, hydraulic oil, gasoline, antifreeze, sediment	Accidental leaking hydraulic oil and antifreeze from loading equipment. Tracking of sediment into the road through the site entrance(s).
Waste material storage areas	Trash, debris	Trash and debris not properly stored may have the potential to discharge to stormwater.
Outdoor Manufacturing areas	Concrete, sediment	Spillage from outdoor manufacturing areas has the potential to be conveyed by stormwater.
Raw material storage areas	Sediment, sand, aggregate, Portland cement	Erosion of exposed and stockpiled raw materials

2.2 Best Management Practices for Stormwater Pollution Prevention

2.2.1 Good Housekeeping Practices to Minimize Stormwater Pollution

Good housekeeping and spill control practices will be followed during site activities to minimize stormwater contamination from concrete, raw materials, petroleum products and waste materials. Good housekeeping and spill control practices include the following:

- Materials and equipment necessary for spill cleanup shall be maintained onsite. Equipment will include, but is not limited to brooms, dust pans, mops, rags, gloves, goggles, plastic trash containers and trash liners;
- On-site vehicles shall be monitored for leaks and will receive regular preventive maintenance to reduce the possibility of leakage;
- Petroleum products shall be stored in tightly sealed containers which are clearly labeled;
- Spill kits shall be included with all fueling sources and maintenance activities;
- Spills shall be cleaned up immediately upon discovery. Spills large enough to reach the storm system will be reported to the National Response Center at 1-800-424-8802;
- Dump trucks hauling material from the site shall be covered with a tarpaulin;
- Paved streets adjacent to the site entrances shall be swept as needed to remove excess mud, dirt, or rock tracked from the site;

- Waste materials shall be collected and stored in securely covered metal dumpsters rented from a licensed solid waste management company. Trash and debris from the site will be deposited in the dumpsters. The dumpsters will be emptied at regular intervals and the trash will be hauled to a solid waste landfill.
- The entire property shall be swept via mechanical equipment daily to remove acclimated sediment from the property.
- Raw material stockpiles, shall be swept after loading and unloading activities to minimize the expansion of the stockpiles beyond the walls of the stockpile area.

Vehicles and construction equipment shall be inspected to ensure fluids, oils, and lubricants are not leaking and the fuels and fluids are stored in properly labeled containers. Spills, leaking fluids, and/or improperly stored fluids shall be brought to the attention of the Project Manager immediately. Applicable regulations governing the storage, transport, use and disposal of fluids and reporting requirements for spills shall be adhered to. If a release of a chemical, fluid, or petroleum occurs it must be reported to the designated Site Safety Inspector and the New York State Department of Environmental Conservation (NYSDEC) Spill Division (1-800-457-7362).

Chemicals stored in staging areas shall have appropriate Material Safety Data Sheets (MSDS). Petroleum products and chemical substances shall be managed in a manner to minimize potential threats to human health and the environment. Oily rags used for equipment maintenance shall be stored in an acceptable containment structure and lawfully disposed of. Trash and other debris generated by site activities shall not be buried but placed in the appropriate dumpster(s).

2.2.2 Sediment Control

Sediment-laden stormwater runoff generated from site activities that could possibly impact a surface water body will be controlled where appropriate. Sediment controls include trench drains, stormwater drywells and dust control measures. The attached drawings show the location of the proposed BMP's.

Trench Drains

Trench drains are proposed to be installed across the width of the existing site entrances. The trench drains will collect stormwater before it exits the property and convey it to proposed stormwater drywells.

Stormwater Drywells

In addition, to the stormwater drywells associated with the proposed trench drains, additional stormwater drywells will be installed in the finished product storage areas as well as the general loading and unloading areas. These drywells will capture localized stormwater in these areas to minimize the amount of stormwater flowing towards the site entrance points.

Dust Control

Dust (particulate matter) control measures shall be implemented as needed on the site.

The following dust control measures shall be implemented in driving areas:

- Limit on-site vehicle speed limits.
- Spray water from a domestic water supply on dry material being offloaded from trucks that might release dust.
- Cover trucks carrying loose material such as debris generated by site activities and raw materials are covered and verify that the covers are properly sealed.

The following dust control measures shall be implemented at raw material stockpiles in non-driving areas:

Spray water from a domestic water supply on stockpiles with appropriate distribution equipment that shall be kept on-site throughout the duration of the site activities.

3.0 Maintenance

3.1 Inspection Procedures

Regular visual inspections of potential stormwater pollution areas are vital in the process of identifying and correcting problems before pollution has an opportunity to occur. Repair of any items shall be handled on a priority basis. The originals of the completed inspection forms are kept with the SWPPP.

In addition to these inspections, a number of regularly scheduled inspections are conducted as described below:

Daily inspections include the following items:

Overall Facility:

- General condition of facility (debris, etc);
- Security fire / Safety deficiencies (locked gates); and
- Fuel spills / Leaks.
- Stockpiles / Sediment

Weekly inspections include the following items:

Overall Facility:

- Stormwater trench drains and drywells (presence of sediment, accumulated water, etc)

3.2 Maintenance Procedures

Corrective and preventive maintenance is performed in conjunction with the daily and weekly inspection procedures described in above. The corrective actions would include the follow:

- Sweeping of sediment from the facility;
- Sweeping of raw materials back into their respective stockpile areas;
- Implementation of dust control as necessary during loading/unloading of raw materials;
- Removal of sediment from stormwater trench drains and drywells.

The completed preventative or corrective maintenance forms are maintained within the facility's SWPPP.

3.3 Ongoing Evaluation of BMP's / Deficiencies / Modifications

The facility personnel shall during the course of their regular inspection shall evaluate the performance of the existing BMP's. If any deficiencies are observed they shall be documented, addressed, corrected and monitored in accordance with NYSDEC SWPPP regulations. If additional BMP's or increased frequency of BMP's or maintenance of BMP's are required they should be documented in accordance with SWPPP regulations.

3.4 Employee Training

Employee and outside contractor training programs must inform personnel responsible for implementing activities identified in the SWPPP of the components and goals of the SWPPP. Training must address topics such as spill response, good housekeeping, and material management practices. The SWPPP must also identify periodic dates for such training.

Nicolock Paving Stones LLC (NPS) conducts training and reviews general SWPPP issues with employees when they start work and at least annually. NPS reviews their training program annually to determine its effectiveness and make any necessary changes to the program. Workers in critical areas (i.e., unloading personnel) also have specific SWPPP procedures and activities emphasized in their training. All specific SWPPP training conducted by NPS will be documented and retained with the SWPPP.

Periodic employee meetings will cover the following items:

- Environmental or health and safety incidents,
- Upcoming training sessions,
- Brief reminders on good housekeeping, pollution prevention and response procedures, and material handling practices, and
- New management procedures or other changes to the SWPPP.

Employee training program topics will include the following:

Good Housekeeping:

- Review and demonstrate basic cleanup procedures.
- Indicate proper disposal methods and locations, and
- Inform employees with emergency contacts and telephone numbers.

4.0 Monitoring and Sampling Data

4.1 Monitoring and Sampling Protocols

Sample Location(s). Describe where samples will be collected, including any determination that two or more outfalls are substantially identical.

TD01 is located on the north side of the facility adjacent to the site entrance along Muncy Avenue.
TD02 is located on the south side of the facility adjacent to the site entrance along Cord Avenue.

Pollutant Parameters to be sampled. Include a list of the pollutant parameters that will be sampled and the frequency of sampling for each parameter.

TD01 & TD02 – Total Suspended Solids
pH

Numeric Limitations. List here any pollutant parameters subject to numeric limits (effluent limitations guidelines), and which outfalls are subject to such limits.

	<u>Daily Avg</u>	<u>Daily Max</u>
Total Suspended Solids	50 mg/L	NA
pH	6.0 to 9.0 SU	

Sampling Procedures. Describe procedures you will follow for collecting samples, including responsible staff who will be involved, logistics for taking and handling samples, etc.

The sampling of stormwater runoff will be conducted in accordance with the Quarterly Visual Monitoring requirements following a qualifying storm event of greater than 0.1 inch rainfall. The samples will be evaluated by trained facility staff and will be documented utilizing the quarterly visual monitoring forms.

Once per year the facility staff will collect a sample following a qualify storm event to be sent to a local ELAP certified laboratory of analysis of the pollutants listed above in the numeric limitations section. All samples will be documented, and sent to a local laboratory along with a chain of custody for analysis.

The samples results will be reviewed by facility staff for compliance with the limitations mentioned above. If the samples results indicate exceedances of the limitations facility staff shall take the

appropriate corrective action to remedy the cause of the exceedance. Results of all samples shall be kept with the SWPPP.

5.0 Responsible Parties

The following facilities representatives shall be responsible for the inspections, monitoring, reporting and sampling associated with the SWPPP:

Name	Position	Contact Number
Kevin Brennan (Primary)	Maintenance Superintendent	(631)339-8057
Alex Nicolia	Maintenance Superintendent	(631)487-9018

6.0 Certifications

6.1 Contractors & Subcontractors Certifications

"I hereby certify that I understand and agree to comply with the terms and conditions of the SWPPP and agree to implement any corrective actions identified by the qualified inspector during a site inspection.

I also understand that the owner or operator must comply with the terms and conditions of the most current version of the New York State Pollutant Discharge Elimination System ("SPDES") general permit for stormwater discharges from site activities and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of the referenced permit and the laws of the State of New York and could subject me to criminal, civil and/or administrative proceedings.

Trained Contractor's Name

Signature

Title

Responsible for the following SWPPP Measures:

Firm Name

1. _____

2. _____

3. _____

Firm Address

4. _____

5. _____

Firm Telephone Number

6. _____

7. _____

Site Address

8. _____

9. _____

Certification Date

10. _____

FIGURES



PWGC
Planning & Engineering Consultants, Inc.
10000 Highway 10, Suite 200
P.O. Box 20000, Dallas, TX 75220
Phone: (214) 343-1234
Fax: (214) 343-1235
Email: info@pwgc.com

Project: [Blank]
Client: [Blank]
Date: [Blank]

Sheet: [Blank] of [Blank]
Scale: [Blank]

Project: [Blank]
Client: [Blank]
Date: [Blank]

Sheet: [Blank] of [Blank]
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Project: [Blank]
Client: [Blank]
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Project: [Blank]
Client: [Blank]
Date: [Blank]

Sheet: [Blank] of [Blank]
Scale: [Blank]



EXISTING CONDITIONS
SITE PLAN
SCALE: 1" = 30'



PROPOSED SITE PLAN
SCALE: 1" = 30'

EXISTING & PROPOSED
SITE PLAN

C-100

2

NCIT101

Exhibit C

Stormwater Pollution Prevention Plan

**Nicolia Ready Mix
3896 Long Beach Road
Island Park, NY 11558**

**12/12/17
(Rev. 1)**

Prepared for:

Owner
S. Nicolia & Sons Realty

612 Muncy Avenue
Lindenhurst, NY 11757

Operator
Nicolia Ready Mix

612 Muncy Avenue
Lindenhurst, NY 11757

Prepared by:

P.W. GROSSER CONSULTING, INC.

Bryan Grogan, P.E.
630 Johnson Avenue, Suite 7
Bohemia, New York 11716
phone: 631.589.6353
fax: 631.589.8705



SWPPP Certification

I hereby certify that the Stormwater Pollution Prevention Plan (SWPPP) for this project has been prepared in accordance with the terms and conditions of the GP-0-12-001. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of this permit and the laws of the State of New York and could subject me to criminal, civil, and/or administrative proceedings.

Date

Bryan Grogan, P.E.
Senior Project Manager

P.W. Grosser Consulting, Inc.
630 Johnson Avenue
Suite 7
Bohemia, NY 11716
Work: (631) 589-6353
Fax: (631) 589-8705
bgrogan@pwgrossex.com

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Figure C-100 – Existing Site Plans

Figure C-101 – Proposed Site Plans

1.0 Facility Information

This Stormwater Pollution Prevention Plan (SWPPP) has been prepared on behalf of S. Nicolai & Sons Realty. The SWPPP is being prepared to satisfy the requirements of the General Permit (GP-0-12-001) issued by the New York State Department of Environmental Conservation (NYSDEC). This SWPPP has been prepared in accordance with the latest requirements of the New York State Standards and Specifications for the Multi-Sector General Permit (MSGP). The SWPPP has been developed to maximize the potential benefits of pollution prevention and use of best management practices (BMP) consistent with the subject properties sector classification. Drawings of the site showing the existing conditions and proposed BMP's are included as an appendix to this SWPPP.

1.1 Project Description

The site is currently utilized as a concrete ready mix facility, which is classified as a Sector E use, and Standard Industrial Classification (SIC) Code 3273 – Ready-Mixed Concrete. No changes to the use of facility are proposed at this time. The existing site is 100 percent impervious.

1.2 Site Description

The site is located at 3896 Long Beach Road, in Island Park, New York. The lot can be uniquely identified as Nassau County Tax Map (NCTM) – Section 43, Block 404, Lot 5.

The site is currently improved and measures approximately 53,200 square feet or 1.2 acres in size. The site is currently improved with two one story industrial/office buildings of approximately 2,400 square feet in size. The buildings are currently utilized as the control room for the ready-mix facility and offices. The outdoor concrete batching plant is located immediately adjacent to the office building. Additionally, the property includes raw material stockpiles, surrounded by jersey barriers as well as a truck washout facilities, and a sedimentation tanks.

The site topography is generally flat across the site. Currently storm water on the site is contained on site, with the possible exceptions of the north edge of the property, as the site entrances are bermed to prevent storm water from running off onto Long Beach Road. Currently in the area of the northern property line storm water has the potential to leave the site and enter the adjacent wooded areas. Once in the wooded areas storm water appears to be conveyed to Barnum's Channel, which is a tributary to Hempstead Bay.

The Federal Emergency Management Agency (FEMA) indicates that the site is located within the Flood Zone AE and Zone X, with the majority of the property being located within Zone AE (special flood hazard areas subject to inundation by the 1% annual chance flood).

The nearest surface water body likely to receive stormwater runoff from the site is Barnums Channel which is located approximately 370 feet northeast of the site. Refer to Figure G-100 – Title Sheet for a location of the site. Barnums Channel, is a tributary to Hempstead Bay which is currently listed as an impaired water body by the NYSDEC. According to the New York State Cultural Resource Information System (CRIS) the site does not contain nor is the site adjacent to historic properties or archeological sensitive areas. Additionally the New York State Environmental Resource Mapper (ERM) indicates that the site is within the boundary of both significant natural communities and rare plants or animals. Upon further review it the rare plant or animals associated with these are listed as follows:

- Sedges (*Cyperus retrorsus* var. *retrorsus*)
- Piping Plover (*Charadrius melodus*)
- Roseate Tern (*Sterna dougallii dougallii*)

As this site was previously fully developed and the proposed modifications will not adversely impact the environment, no impacts to the possible plant and animal species are anticipated.

The site is not currently covered by another SPDES permit, since the manufacturing process does not produce process wastewater or utilize non-contact cooling water. The sanitary wastewater generated on site is disposed into the Nassau County Sewer District.

1.3 Adjacent Property

Land use of the surrounding properties consist of industrial/office properties located on the east, south and west sides of the property. Areas north of the property are wooded areas, and a power generating facility.

1.4 Soils

A soil survey for the site was completed as part of the National Cooperative Soil Survey by the joint effort of the National Resources Conservation Service United States Department of Agriculture and other State and Local agencies. The soil survey was most recently updated in 2014. The soil survey indicates that the soil on the site consists of 97.6% Urban Land (Uw), 2.4% Urban Land (Ug), 0.1% Udipsamments (Ue).

1.5 Groundwater

To determine the depth to groundwater the USGS "Long Island Depth to Water Viewer" website (<http://ny.water.usgs.gov/maps/li-dtw10/>), which uses groundwater data that was compiled from April 2010 to May 2010, was consulted. The viewer indicated that the depth to groundwater on site is approximately 9 feet from surface grade.

2.0 Potential Pollutant Sources

The purpose of this section is to identify and address pollutants and activities that could impact stormwater. Site-related pollutants include concrete raw materials, concrete finished products, concrete dust, vehicle oils, and diesel fuel. Site-related pollutants can originate from the handling of raw and finished materials, waste disposal and vehicular traffic. This section also serves to identify the types of BMP's that will be used during site activities. These BMP's will provide controls to reduce possibilities of stormwater contamination, divert stormwater runoff and remove sediments.

2.1 Identification and Control of Potential Stormwater Pollutants

The purpose of this subsection is to identify and address pollutants that could impact stormwater during industrial activities.

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Hydraulic oil/fluids	Brown oily petroleum hydrocarbon	Mineral oil
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Diesel Fuel	Clear, blue-green to yellow liquid	Petroleum distillate, oil & grease, naphthalene, xylenes
Antifreeze/coolant	Clear green/yellow liquid	Ethylene glycol, propylene glycol, heavy metals (copper, lead, zinc)
Concrete Sand	Solid particles	Soil, sediment
Portland Cement	Solid particles	Sediment
Concrete Aggregate	Solid particles	Sediment

- Petroleum products shall be stored in tightly sealed containers which are clearly labeled;
- Spill kits shall be included with all fueling sources and maintenance activities;
- Spills shall be cleaned up immediately upon discovery. Spills large enough to reach the storm system will be reported to the National Response Center at 1-800-424-8802;
- Dump trucks hauling material from the site shall be covered with a tarpaulin;
- Paved streets adjacent to the site entrances shall be swept as needed to remove excess mud, dirt, or rock tracked from the site;
- Waste materials shall be collected and stored in securely covered metal dumpsters rented from a licensed solid waste management company. Trash and debris from the site will be deposited in the dumpsters. The dumpsters will be emptied at regular intervals and the trash will be hauled to a solid waste landfill.
- The entire property shall be swept via mechanical equipment daily to remove accreted sediment from the property.
- Raw material stockpiles, shall be swept after loading and unloading activities to minimize the expansion of the stockpiles beyond the walls of the stockpile area.
- Concrete washout areas, shall be inspected to ensure they have not exceeded storage capacities. These areas shall also be cleaned to ensure spilled materials are not tracked throughout the site.

Vehicles and construction equipment shall be inspected to ensure fluids, oils, and lubricants are not leaking and the fuels and fluids are stored in properly labeled containers. Spills, leaking fluids, and/or improperly stored fluids shall be brought to the attention of the plant operator immediately. Applicable regulations governing the storage, transport, use and disposal of fluids and reporting requirements for spills shall be adhered to. If a release of a chemical, fluid, or petroleum occurs it must be reported to the designated Site Safety Inspector and the New York State Department of Environmental Conservation (NYSDEC) Spill Division (1-800-457-7362).

Chemicals stored in staging areas shall have appropriate Material Safety Data Sheets (MSDS). Petroleum products and chemical substances shall be managed in a manner to minimize potential threats to human health and the environment. Oily rags used for equipment maintenance shall be stored in an acceptable containment structure and lawfully disposed of. Trash and other debris generated by site activities shall not be buried but placed in the appropriate dumpster(s).

2.2.2 Sediment Control

Sediment-laden stormwater runoff generated from site activities that could possibly impact a surface water body will be controlled where appropriate. Sediment controls include trench drains, stormwater drywells and dust control measures. The attached drawings show the location of the proposed BMP's.

Trench Drains

Trench drains are proposed to be installed across the width of the existing site entrances. The trench drains will collect stormwater before it exits the property and convey it to existing and proposed stormwater drywells.

Jersey Barrier Wall

A jersey barrier wall is proposed for the portion of the northern property line between the existing stockpiles and the office building. The proposed jersey barrier wall will prevent storm water runoff for leaving the northern side of the site.

Stormwater Drywells

In addition, to the stormwater drywells associated with the proposed trench drains, additional stormwater drywells will be installed in the loading and unloading areas. These drywells will capture localized stormwater in these areas to minimize the amount of stormwater flowing towards the site entrance points.

Dust Control

Dust (particulate matter) control measures shall be implemented as needed on the site.

The following dust control measures shall be implemented in driving areas:

- Limit on-site vehicle speed limits.
- Spray water from a domestic water supply on dry material being offloaded from trucks that might release dust.
- Cover trucks carrying loose material such as debris generated by site activities and raw materials are covered and verify that the covers are properly sealed.

The following dust control measures shall be implemented at raw material stockpiles in non-driving areas:

Spray water from a domestic water supply on stockpiles with appropriate distribution equipment that shall be kept on-site throughout the duration of the site activities.

3.0 Maintenance

3.1 Inspection Procedures

Regular visual inspections of potential stormwater pollution areas are vital in the process of identifying and correcting problems before pollution has an opportunity to occur. Repair of any items shall be handled on a priority basis. The originals of the completed inspection forms are kept with the SWPPP.

In addition to these inspections, a number of regularly scheduled inspections are conducted as described below:

Daily inspections include the following items:

Overall Facility:

- General condition of facility (debris, etc);
- Security fire / Safety deficiencies (locked gates); and
- Fuel spills / Leaks.
- Stockpiles / Sediment

Weekly inspections include the following items:

Overall Facility:

- Stormwater trench drains and drywells (presence of sediment, accumulated water, etc)

3.2 Maintenance Procedures

Corrective and preventive maintenance is performed in conjunction with the daily and weekly inspection procedures described in above. The corrective actions would include the follow:

- Sweeping of sediment from the facility;
- Sweeping of raw materials back into their respective stockpile areas;
- Implementation of dust control as necessary during loading/unloading of raw materials;
- Removal of sediment from stormwater trench drains and drywells.
- Visual checks on the settling tanks to ensure they have adequate capacity and are being emptied on a regular basis.

The completed preventative or corrective maintenance forms are maintained within the facility's SWPPP.

3.3 Ongoing Evaluation of BMP's / Deficiencies / Modifications

The facility personnel shall during the course of their regular inspection shall evaluate the performance of the existing BMP's. If any deficiencies are observed they shall be documented, addressed, corrected

and monitored in accordance with NYSDEC SWPPP regulations. If additional BMP's or increased frequency of BMP's or maintenance of BMP's are required they should be documented in accordance with SWPPP regulations.

3.4 Employee Training

Employee and outside contractor training programs must inform personnel responsible for implementing activities identified in the SWPPP of the components and goals of the SWPPP. Training must address topics such as spill response, good housekeeping, and material management practices. The SWPPP must also identify periodic dates for such training.

Nicolia Ready Mix (NRM) conducts training and reviews general SWPPP issues with employees when they start work and at least annually. NRM reviews their training program annually to determine its effectiveness and make any necessary changes to the program. Workers in critical areas (i.e., unloading personnel) also have specific SWPPP procedures and activities emphasized in their training. All specific SWPPP training conducted by NRM will be documented and retained with the SWPPP.

Periodic employee meetings will cover the following items:

- Environmental or health and safety incidents,
- Upcoming training sessions,
- Brief reminders on good housekeeping, pollution prevention and response procedures, and material handling practices, and
- New management procedures or other changes to the SWPPP.

Employee training program topics will include the following:

Good Housekeeping:

- Review and demonstrate basic cleanup procedures,
- Indicate proper disposal methods and locations, and
- Inform employees with emergency contacts and telephone numbers.

4.0 Monitoring and Sampling Data

4.1 Monitoring and Sampling Protocols

Sample Location(s). Describe where samples will be collected, including any determination that two or more outfalls are substantially identical.

TD01 is located on the north side of the facility adjacent to the site entrance along Cord Avenue.
 TD02 is located on the south side of the facility adjacent to the truck parking area along Bond Boulevard.

Pollutant Parameters to be sampled. Include a list of the pollutant parameters that will be sampled and the frequency of sampling for each parameter.

TD01 & TD02 – Total Suspended Solids
 pH

Numeric Limitations. List here any pollutant parameters subject to numeric limits (effluent limitations guidelines), and which outfalls are subject to such limits.

	<u>Daily Avg</u>	<u>Daily Max</u>
Total Suspended Solids	50 mg/L	NA
pH	6.0 to 9.0 SU	

Sampling Procedures. Describe procedures you will follow for collecting samples, including responsible staff who will be involved, logistics for taking and handling samples, etc.

The sampling of stormwater runoff will be conducted in accordance with the Quarterly Visual Monitoring requirements following a qualifying storm event of greater than 0.1 inch rainfall. The samples will be evaluated by trained facility staff and will be documented utilizing the quarterly visual monitoring forms.

Once per year the facility staff will collect a sample following a qualify storm event to be sent to a local ELAP certified laboratory of analysis of the pollutants listed above in the numeric limitations section. All samples will be documented, and sent to a local laboratory along with a chain of custody for analysis.

The samples results will be reviewed by facility staff for compliance with the limitations mentioned above. If the samples results indicate exceedances of the limitations facility staff shall take the appropriate corrective action to remedy the cause of the exceedance. Results of all samples shall be kept with the SWPPP.

5.0 Responsible Parties

The following facilities representatives shall be responsible for the inspections, monitoring, reporting and sampling associated with the SWPPP:

Name	Position	Contact Number
Kevin Brennan (Primary)	Maintenance Superintendent	(631)339-8057
Alex Nicolia	Maintenance Superintendent	(631)487-9018

6.0 Certifications

6.1 Contractors & Subcontractors Certifications

"I hereby certify that I understand and agree to comply with the terms and conditions of the SWPPP and agree to implement any corrective actions identified by the qualified inspector during a site inspection. I also understand that the owner or operator must comply with the terms and conditions of the most current version of the New York State Pollutant Discharge Elimination System ("SPDES") general permit for stormwater discharges from site activities and that it is unlawful for any person to cause or contribute to a violation of water quality standards. Furthermore, I understand that certifying false, incorrect or inaccurate information is a violation of the referenced permit and the laws of the State of New York and could subject me to criminal, civil and/or administrative proceedings.

Trained Contractor's Name

Signature

Title

Responsible for the following SWPPP Measures:

1. _____

2. _____

Firm Name

3. _____

Firm Address

4. _____

5. _____

Firm Telephone Number

6. _____

7. _____

Site Address

8. _____

9. _____

Certification Date

10. _____

FIGURES



PWGC
Professional Waterway and Engineering Consultants

3896 LONG BEACH ROAD
SUITE 100
HEMPSTEAD, NY 11547
TEL: 516.484.1100
FAX: 516.484.1101
WWW.PWGC-INC.COM

DATE: 12/14/17

3896 LONG BEACH ROAD STORMWATER POLLUTION PREVENTION PLAN (SWPPP) TOWN OF HEMPSTEAD, SUFFOLK COUNTY, NY

SITE PLANS

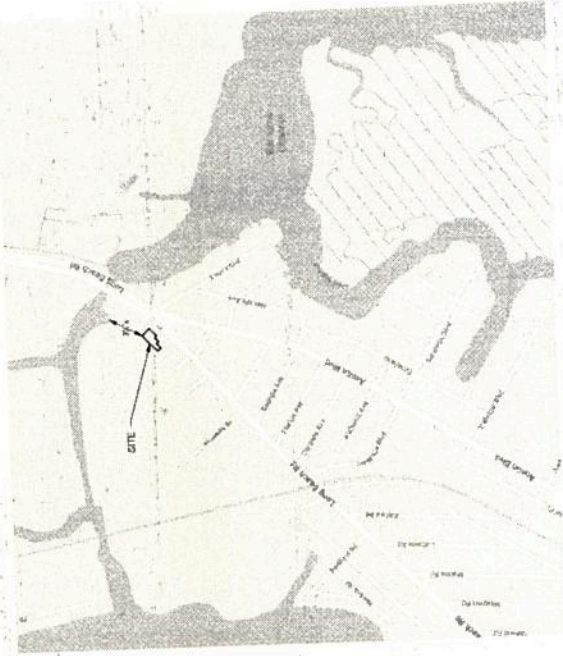
ISSUED FOR	PERMIT
DATE ISSUED	12-13-17
LATEST ISSUE	12-14-17

INDEX

No.	DRAWING TITLE	LATEST ISSUE
G-100	TITLE SHEET	DECEMBER 14, 2017
C-100	EXISTING & PROPOSED SITE PLANS	DECEMBER 14, 2017

PROPERTY INFORMATION

NOTE	3896 LONG BEACH ROAD SUITE 100 HEMPSTEAD, NY 11547
TAX MAP	SEC. 63 S. 4 E. 4 N. LOT 1 E
AREA	12.36 ACRES
LOCATION	654' W
CONFORMANCE	72.642'



VICINITY MAP
SCALE = 1" = 500'
0 500 1,000

TITLE SHEET

G-100

1 2

NG11703

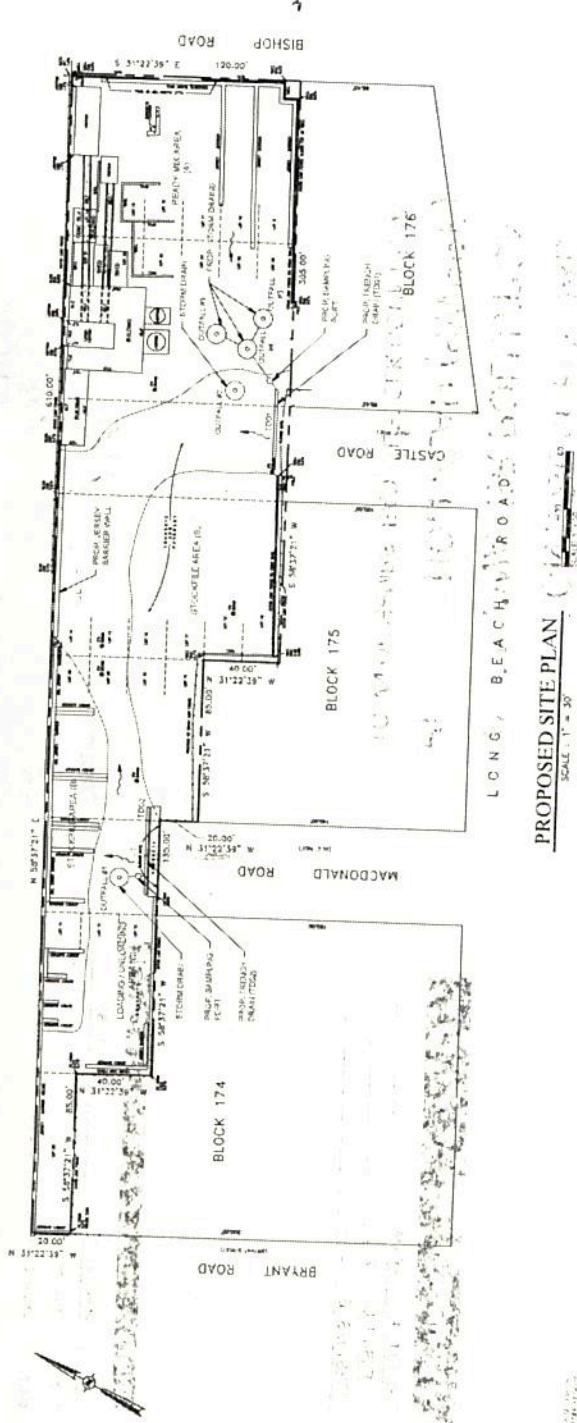
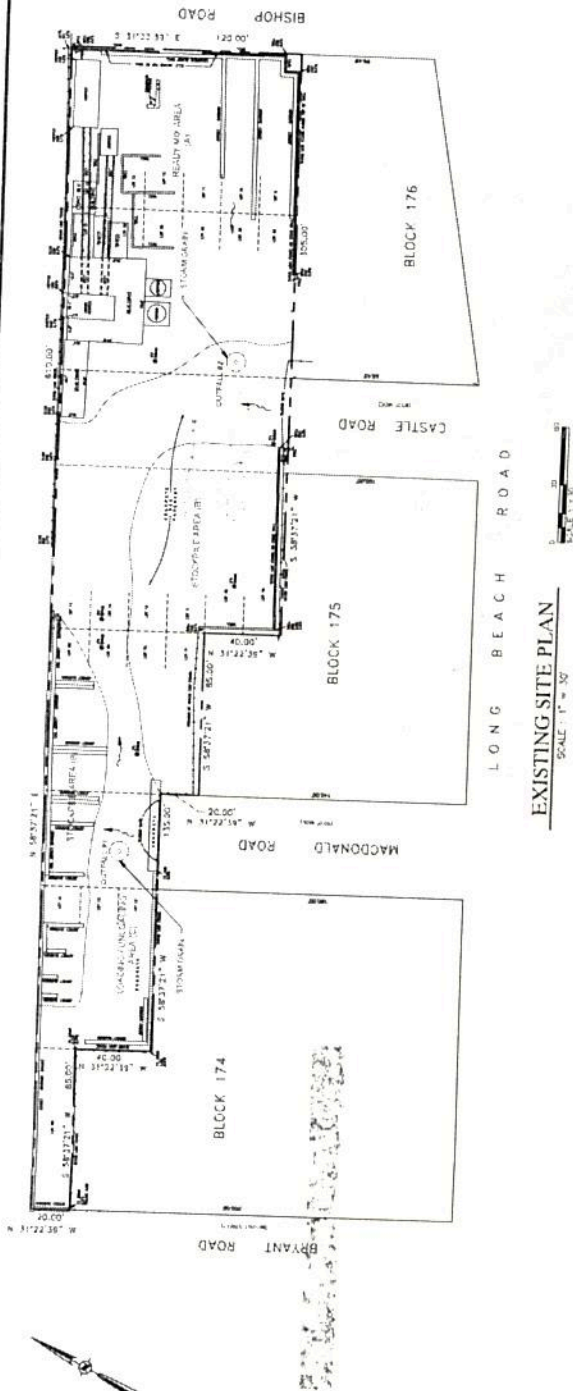


PWGC

Professional Waterway and Geotechnical Engineering, Inc.

2100 Peachtree Avenue, Suite 200
Atlanta, Georgia 30309
Phone: 404.525.1111
Fax: 404.525.1112
Email: info@pwgc.com
Website: www.pwgc.com

10/15/2013



**EXISTING & PROPOSED
SITE PLANS**

C-100

2 2 NG11751

EXHIBIT D

Additional Nicolia Ready-Mix Facilities

- (1) 25 Montclair Avenue, Smithtown, NY 11780 (Smithtown)
- (2) 43 Colin Drive, Shirley, NY 11967 (Yaphank)
- (3) 36 Kroemer Avenue, Riverhead, NY 11901 (Riverhead)
- (4) 482 Grand Boulevard, Westbury, NY 11590 (Westbury)